

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAMELA L DEVORE
Claimant

CLARKE COMMUNITY SCHOOL DISTRICT
Employer

APPEAL 18A-UI-01516-H2T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 09/03/17
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 26, 2018, (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 27, 2018. Claimant participated. Employer participated through Ruth White, Business Manager.

ISSUE:

Is the claimant able to and available for work effective December 24, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for this employer only as a substitute teacher or on an on-call as needed basis. She was on Department approved training but that authorization expired on December 24, 2017. The claimant is currently student teaching Monday through Friday from 7:45 a.m. until 3:35 p.m. As a student teacher she is not allowed to accept any substitute teaching assignments.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to and available for work effective December 24, 2017.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as

defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(5) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

The claimant is currently a full time student. Her department approved training which would have allowed her to stop searching for work or being available for work expired on December 24, 2017. She has not made a new application for this school semester. Without department approved training approval the claimant must meet the able and available requirements of the law. As a full time student teacher Monday through Friday from 7:45 a.m. until 3:35 p.m. she is not considered able to and available for work. Accordingly, benefits must be and are denied.

DECISION:

The January 26, 2018, (reference 03) decision is affirmed. The claimant is not able to and available for work effective December 24, 2017. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs